

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

MATTHEW G. SILVA,

Plaintiff,

v.

CHRISTINE GREGOIRE, *et al.*,

Defendants.

CASE NO. C05-5731RJB

ORDER GRANTING IN PART
AND DENYING IN PART
PLAINTIFF'S MOTION FOR
EXTENSION OF TIME TO FILE
OBJECTIONS, TO STAY
PROCEEDINGS AND TO
STRIKE/RE-NOTE ORDERS
AND GRANTING
DEFENDANTS' MOTION TO
CONTINUE JOINT STATUS
REPORT FILING DATE

This matter comes before the Court on the Plaintiff's Motion for Extension of Time to File Objections, to Stay Proceedings and to Strike/Re-note Orders (Dkt. 127) and the defendants' Motion to Continue Joint Status Report Filing Date (Dkt. 123). The Court has considered the pleadings filed in support of and in opposition to the motions and the remainder of the file herein.

I. PROCEDURAL BACKGROUND

On November 17, 2006, the defendants moved for summary judgment. Dkt. 87. Mr. Silva requested more time to respond to the motion, and his request was granted. Dkt. 90; Dkt. 93. Mr. Silva's response was due on or before February 2, 2007. Dkt. 93 at 2. No response has been filed,

1 and Mr. Silva has not objected to the Report and Recommendation.

2 On April 25, 2007, the Court re-noted the Report and Recommendation on the
3 defendants' motion for consideration on May 11, 2007, noting that "Mr. Silva may require more
4 time to respond or object." Dkt. 126 at 2. The plaintiff now moves for an extension of time to file
5 objections, a stay of these proceedings, and other relief. Dkt. 127. The defendants have
6 responded. Dkt. 129. No reply was filed.

7 The defendants have also moved for an extension of the deadline for filing the joint status
8 report in this case, contending that filing of the joint status report should not be required until the
9 Court rules on the pending motion for summary judgment (Dkt. 87). Dkt. 123 at 1. Mr. Silva has
10 not responded to the motion.

11 **II. DISCUSSION**

12 **A. THE PLAINTIFF'S MOTION**

13 First, the plaintiff seeks "an extension of time for plaintiff to file objections to each non-
14 dispositive order entered by the Magistrate Judge in this case since November, 2006." Dkt. 127 at
15 1. The plaintiff offers no legal basis for objecting to any orders issued by Magistrate Judge
16 Strombom. In addition, the plaintiff does not identify any orders of which he seeks
17 reconsideration. The motion should be denied in this respect.

18 Second, the plaintiff seeks "an extension of time for plaintiff to file objections to the
19 Magistrate Judge's Report and Recommendation denying plaintiff's request for injunctive relief."
20 Dkt. 127 at 1. Mr. Silva asks that the Court grant an extension of thirty days, commencing upon
21 Mr. Silva's receipt of his legal files. Dkt. 127 at 1. The plaintiff also requests more time to
22 respond to the defendants' dispositive motion. *Id.* at 2. These matters are currently noted for
23 consideration on May 11, 2007. Dkt. 124; Dkt. 126. According to the defendants, Mr. Silva has
24 had opted not to access his legal files pursuant to the policies of procedures of the Department of
25 Corrections, whereby the plaintiff is permitted to have one box of legal materials in his cell. Dkt.
26 129-2 at 15-16. The defendants ask that the Court not delay a ruling on pending motions but
27 allege no prejudice stemming from such a delay. The Court should re-note the pending Reports
28 and Recommendations to allow the plaintiff more time to file objections, but the plaintiff is

1 cautioned that the Court will not entertain future delays for reasons within the plaintiff's control.

2 Third, the plaintiff asks the Court to "[s]tay these proceedings until the plaintiff is able to
3 obtain his legal files." Dkt. 127 at 1. Mr. Silva does not demonstrate that he is unable to obtain his
4 legal files or that a stay is warranted. The motion should be denied in this respect.

5 Fourth, the plaintiff asks the Court to "[s]trike and/or re-note all orders the Magistrate
6 Judge has entered during the pendency of plaintiff's motion for reconsideration of recusal." Dkt.
7 127 at 1. This request is not justified by the record or by the plaintiff's allegations and should be
8 denied.

9 **B. JOINT STATUS REPORT DEADLINE**

10 It appears that the plaintiff would benefit from an extension of time to file the joint status
11 report. *See* Local Rule CR 7(b)(2) ("If a party fails to file papers in opposition to a motion,
12 such failure may be considered by the court as an admission that the motion has merit."). The
13 Court should grant the motion.

14 **III. ORDER**

15 Therefore, it is hereby

16 **ORDERED** that the Plaintiff's Motion for Extension of Time to File Objections, to Stay
17 Proceedings and to Strike/Re-note Orders (Dkt. 127) is **GRANTED in part** and **DENIED in**
18 **part** as provided herein. The Reports and Recommendations of United States Magistrate Judge
19 Karen L. Strombom (Dkt. 118 and Dkt. 124) are **RE-NOTED** for June 8, 2007. The defendants'
20 Motion to Continue Joint Status Report Filing Date (Dkt. 123) is **GRANTED**. The joint status
21 report shall be filed on or before June 29, 2007.

22 The Clerk of the Court is instructed to send uncertified copies of this Order to all counsel
23 of record and to any party appearing pro se at said party's last known address.

24 DATED this 8th day of May, 2007.

25 
26 ROBERT J. BRYAN
27 United States District Judge
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